

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE TRICOR INDIRECT PURCHASER
ANTITRUST LITIGATION

C.A. No. 05-360 (KAJ)
(consolidated)

THIS DOCUMENT RELATES TO:

PAINTERS' DISTRICT COUNCIL NO. 30
HEALTH AND WELFARE FUND, et al.

C.A. No. 05-360

VISTA HEALTH PLAN, INC., et al.

C.A. No. 05-365

PENNSYLVANIA EMPLOYEES BENEFIT
TRUST FUND

C.A. No. 05-390

ALLIED SERVICES DIVISION WELFARE
FUND, et al.

C.A. No. 05-394

DIANA KIM

C.A. No. 05-426

ELAINE M. PULLMAN, et al.

C.A. No. 05-450

PHILADELPHIA FEDERATION OF
TEACHERS HEALTH AND WELFARE FUND

C.A. No. 05-467

CINDY CRONIN

C.A. No. 05 482

CHARLES SHAIN, et al.

C.A. No. 05-475

LOCAL 28 SHEET METAL WORKERS

C.A. No. 05-516

ALBERTO LITTER

C.A. No. 05-695

**REPLY DECLARATION OF CHRISTOPHER J. MCDONALD
IN FURTHER SUPPORT OF END-PAYOR PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION [PUBLIC VERSION]**

CHRISTOPHER J. McDONALD, hereby declares as follows:

1. I am a member of the bars of the State of New York and the Southern and Eastern Districts of New York. I have also been admitted to appear *pro hac vice* before this Court in the above-captioned action. I have personal knowledge of the facts set forth herein and, if called as a witness, I could competently testify to the matters set forth herein.

2. In connection with End-Payor Plaintiffs' Motion for Class Certification [D.1. 116], I submitted a declaration in support [D.I. 118, 119, 126] ("my earlier declaration"). I now submit this reply declaration to further supplement the record with materials referred to in the Reply Memorandum in Support of End-Payor Plaintiffs' Motion for Class Certification ("End-Payors' Reply Memorandum"), filed simultaneously herewith, and the Reply Declaration of Charles King III (the "King Reply Report"), which is attached hereto as Exhibit 49.¹

3. The King Reply Report makes reference to, *inter alia*, documents, or excerpts of documents, that have been produced in discovery in the *TriCor Antitrust Litigation*. Annexed hereto as Exhibits 50 through 60 are true and correct copies of the 11 discovery documents cited in the King Reply Report.² Table One, on the following page, lists these materials and identifies where they appear in the King Reply Report:

¹ My earlier declaration had 48 exhibits. The exhibit numbering in this declaration picks up where my earlier declaration left off.

² In addition, there are two documents cited in the King Reply Report that were previously submitted as exhibits to my earlier declaration. See King Reply Report at pg. 9, n. 32 and Attachment C, n. 6 (citing which is Exhibit 11 to my earlier declaration) and at pg. 24, n. 90 (citing which is Exhibit 18 to my earlier declaration, and which Dr. King also refers to as Sherry Exhibit 20).

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REDACTED

4. Also annexed hereto are true and correct copies of excerpts of the depositions of the following individuals taken in this matter, which are referred to in End-Payors' Reply Memorandum and/or the King Reply Report:

REDACTED

³ Referred to in the King Reply Report as Sherry Exhibit 19.

5. Also annexed hereto are two documents marked as exhibits at the deposition of

Robert Navarro:

Exhibit No.	Title	Deposition Exhibit No.
65	Chapter 15: Prescription Drug Benefits in Managed Care	Navarro Ex. 10
66	Chapter 6: Evolution of the Management of U.S. Health Care: Managing Costs to Care Management	Navarro Ex. 11

6. Annexed hereto as Exhibit 67 is the Proposed Trial Plan submitted in *In re Pharmaceutical Industry Average Wholesale Price Litig.*, C.A. No. 01-12257(PBS) (D. Mass.).

7. Annexed hereto as Exhibit 68 is the Proposed Trial Plan submitted in *Schwab v. Philip Morris USA, Inc.*, C.A. No. 04-1945(JBW) (E.D.N.Y.).

8. Annexed hereto as Exhibit 69 is the Second Declaration of Laurence H. Tribe dated Aug. 19, 2005, submitted in *Schwab*.

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s/Christopher J. McDonald
Christopher J. McDonald